

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

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ALEXANDRA M. CLANCY,	:	
	:	
Plaintiff,	:	Case No. 17-cv-03371-ELH
	:	
v.	:	
	:	
JACK RYAN ENTERPRISES,	:	
LTD., <i>et al.</i> ,	:	
	:	
Defendants.	:	

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**PLAINTIFF’S MEMORANDUM IN OPPOSITION TO
DEFENDANTS’ MOTION FOR LEAVE TO FILE A FIVE-PAGE SURREPLY**

Alexandra M. Clancy, by her attorneys, opposes the Defendants’ request to file a surreply.

Defendants have already filed 85 pages briefing the issues presented in the parties’ respective cross-motions for summary judgment in contrast to the Plaintiff’s 74 pages. When Plaintiff sought Defendants’ consent to Plaintiff’s motion seeking leave to file a 35 page Reply, they withheld it and actively opposed Plaintiff’s motion. Although the Court granted Plaintiff an additional five pages, it declined to grant her the full 35 pages that she requested.

Surreplies are disfavored under Local Rule. 105.2.a. and may be permitted only “when the party seeking to file the surreply ‘would be unable to contest matters presented to the court for the first time’ in the opposing party’s reply. However, a surreply is not generally permitted where the reply is merely responsive to an issue raised in the opposition.” *Courtney-Pope v. Bd. of Educ.*, 304 F. Supp. 3d 480, 485 (D. Md. 2018) (citations omitted).

Seeking to characterize their proposed Surreply as necessitated by new matter, Defendants claim that Plaintiff has gone beyond the bounds of a proper Reply. However, all of the issues for

which the Defendants wish to have a “final word” have been presented in prior briefing. For example, Defendants complain that Plaintiff’s citation of case law invoking the “instance and expense” test is entirely new and they must be given a chance to rebut it. Their argument neglects to mention that Plaintiff cited the cases invoking the “instance and expense” test to rebut Defendants’ contorted arguments regarding work for hire. Plaintiff cited the authority to demonstrate that Defendants’ construction of work for hire cannot be squared with the doctrine’s ultimate purpose. Defendants certainly do not suggest that “work for hire” is a new issue after having devoted dozens of pages to its illumination.

This Court’s policy disfavoring surreplies is well-established. The Court should therefore deny Defendants’ request for leave to file their surreply.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 14, 2020, a copy of the foregoing document was served in compliance with ECF guidelines on:

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